

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

PIL WRIT PETITION NO.88 OF 2006

Francis Anthony Xavier

.. Petitioner

v/s.

The State of Maharashtra and others.

.. Respondents

Mr.Akhilesh Upadhyay for the petitioner.

Mr.V.A.Thorat, senior counsel with Ms.P.A.Purandare for the respondent No.2.

Mr.P.K.Samdani, senior counsel i/by Mr.K.D.Abhichandani for the respondent No.3.

Mr.Milind More, Assistant Government Pleader for the respondent No.1.

CORAM : R.M.LODHA &

S.A.BOBDE, JJ.

DATED : 16TH AUGUST, 2006.

P.C.

We heard the counsel for the petitioner, the senior counsel for the Municipal Corporation of Greater Mumbai and the senior counsel for the respondent No.3 (M/s.K. Raheja Constructions Pvt.Ltd.) We also perused the affidavits filed by Sudhakar Baburao Nangnure, Deputy Secretary, Urban Development Department, Government of Maharashtra, Poriya Hasmukh Laxmandas, Assistant Engineer, Municipal Corporation of Greater Mumbai and Kanwa Diwan, constituted Attorney of the respondent No.3.

2. The disputed and controversial aspect of the case as to whether the constructions at CTS No.6, Survey No.504, situate at Linking Road, Malad, Near IGMAA, K.Raheja Complex INTL, Malad (West), Mumbai are in breach of CRZ notification dated 19.2.1991 needs to be examined by the Maharashtra Coastal Zone Management Authority, Mumbai.

3. We, accordingly, dispose of this writ petition by the following order:-

- i) The Maharashtra Coastal Zone Management Authority, Mumbai is directed to examine as to whether the constructions on CTS No.6, Survey No.504, Linking Road, Near IGMAA, K.Raheja Complex INTL, Malad (West), Mumbai are in breach of the notification dated 19.2.1991 or not.
- ii) Before taking any decision into the aforesaid aspect of the matter, the Maharashtra Coastal Zone Management Authority shall give notice to the respondent No.3 and other concerned persons.
- iii) If the Maharashtra Coastal Zone Management Authority holds that the construction or any part of it at CTS No.6, Survey No.504 respondent No.3

or any such person is in breach of notification dated 19.2.1991, said Authority shall take appropriate action against the errant persons.

(R.M.LODHA, J.)

(S.A. BOBDE, J.)